

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CRIMINAL NO. 3:03CR73

UNITED STATES OF AMERICA)

)

)

VS.)

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SIDNEY N. HOFFMAN)

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ORDER

THIS MATTER is before the Court on the Defendant's motion to defer his restitution payments. The motion is denied.

The Defendant's restitution payments were ordered in his Judgment of Conviction in a Criminal Case to be made through the Inmate Financial Responsibility Program. The authority and method of collection through this program as well as a determination of the Defendant's ability to pay has been delegated to the Bureau of Prisons (BOP) by federal regulations.

28 C.F.R. §§ 545.10-545.16. Defendant, who requests that he not be required to make any such payments until his release from prison, is obligated to exhaust all administrative remedies through the BOP before approaching the appropriate district court. ***Aja v. Bureau of Prisons***

***Staff*, 202 F.3d 267 (table), 1999 WL 1336093 (6th Cir. 1999); *United States v. Rumney*, 86 F.3d 1147 (table), 1996 WL 325485 (1st Cir. 1996); *Indelicato v. Suarez*, 207 F.Supp.2d 216 (S.D.N.Y. 2002).**

In addition, it is not unconstitutional to condition the right to work to an agreement that BOP will garnish a portion of the inmate's earnings for payment toward fines, assessments and/or restitution. ***James v. Quinlan*, 866 F.2d 627 (3d Cir. 1989).** Indeed, such payments may be collected from non-wage funds contained within a prisoner's inmate account. ***Moreno v. Hood*, 10 Fed. Appx. 600 (9th Cir. 2001).**

IT IS, THEREFORE, ORDERED that the Defendant's motion is hereby **DENIED**.

Signed: January 11, 2006

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

